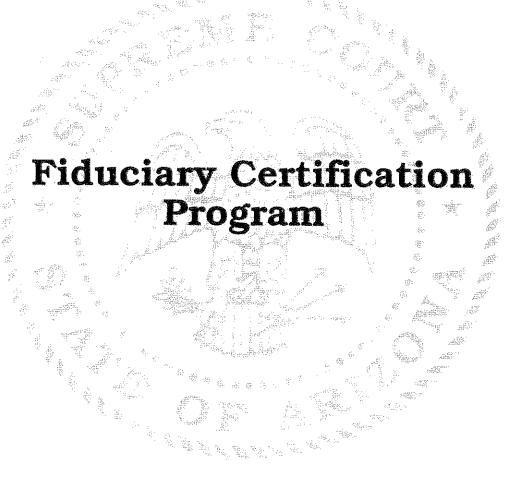
Arizona Supreme Court Administrative Office of the Courts



Compliance Audit

Yuma County Public Fiduciary

July, 2007

Arizona Supreme Court CLD, Compliance

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Disclaimer

This final report represents the information and conditions encountered at the point in time of the audit and does not purport to represent conditions prior to or subsequent to the performed audit. The information presented does not represent an endorsement or denunciation of the audited fiduciary or business.

After this report is distributed to the audited fiduciary, presiding judge of the county and, if a public fiduciary, the county supervisors, it becomes public record.

Executive Summary

Section 1

Executive Summary

Yuma County Public Fiduciary

Compliance Audit Report

The Arizona Supreme Court, Fiduciary Certification Program conducted a compliance audit of the Yuma County Public Fiduciary pursuant to Arizona Revised Statutes § 14-5651 and Arizona Supreme Court Administrative Order 2003-31. During the period of April 16, 2007 through April 26, 2007 the Compliance Unit audited the fiduciary activities of the Yuma County Public Fiduciary (YCPF) and its certified employees. The following is a summary of the audit findings.

Finding #1 – Certification Number

YCPF submitted documents to the Superior Court in Yuma County without the fiduciary's certification and business certification numbers on court documents.

YCPF agreed with the finding and stated all documents will now have both the signing fiduciary's certificate number and the business certificate number on them.

Finding #2 – Late Filings

Statutorily required reports on fiduciary clients were submitted to the court after the due dates.

YCPF agreed with thirteen (13) and disagreed with nine (9) of the late findings and has taken steps internally by implementing a new tracking system. YCPF reports there have been no late accountings in over 12 months.

Finding #3 – Accuracy

Inventory and Appraisements, Annual Accountings and Annual Reports of Guardian were inaccurately prepared and/or documented.

YCPF agreed with three of the four findings and has improved processes.

Finding #4 - Marshalling and Securing Assets

The fiduciary did not marshal and secure the property and income of the client as soon as possible.

YCPF agreed with one of the two the findings and has taken steps with staff and banks to address the deficiency.

Executive Summary

Finding #5 – Staff Certification

Uncertified YCPF staff were performing fiduciary tasks responsibilities.

YCPF disagreed with the finding indicating all staff are under direct supervision of certified individuals. The auditor disagrees. The staff in question are now on the fiduciary certification trainee list.

Finding #6 – Documentation

YCPF failed to document the administration of clients' estates and/or care.

YCPF agreed with six of the seven findings and is implementing policies and procedures to address the finding.

Final Report

Section 2

Objective

The compliance audit of the Yuma County Public Fiduciary was conducted pursuant to the Fiduciary Program's responsibilities as set forth in A.R.S. § 14-5651, Arizona Supreme Court Administrative Order No. 2003-31 and the Arizona Code of Judicial Administration ("ACJA") § 7-201: General Requirements and § 7-202: Fiduciaries¹.

The objective of the compliance audit was to determine compliance with applicable statutes, Arizona Supreme Court orders and rules and ACJA § 7-201 and § 7-202.

Methodology

In preparation for the compliance audit, preliminary survey questions were requested and responded to by the Yuma County Public Fiduciary ("YCPF"). The responses were reviewed and compiled to assist in the development of case file samples. In addition, information was requested from the Superior Court in Yuma County to verify court appointment information.

In order to test for compliance, the program has developed and currently utilizes a set of fiduciary compliance attributes consisting of Arizona statutes, Arizona Supreme Court rules and ACJA § 7-201 and § 7-202. Compliance with these requirements was tested by staff interviews, observation and reviewing samples of client case files.

A stratified sampling approach was used. The selected samples of court appointed client case files were designed to provide conclusions about the accuracy, validity and timeliness of transactions, internal controls and compliance with the fiduciary attributes utilizing a cross-section of samples of court appointment types. Client case files were selected by type of appointment, length of appointment, type of required client protection and initiation or termination of appointment during the review time frame.

Beginning April 16, 2007 and prior to beginning the onsite fieldwork, the auditor reviewed the selected client court files from the Superior Court in Yuma County and conducted internal controls interviews with YCPF staff.

During the period of April 16, 2007 through April 26, 2007 the

Arizona Codes of Judicial Administration, General Requirements & Fiduciaries, January 1, 2007

Compliance Unit of the Certification and Licensing Division of the Administrative Office of the Courts, Arizona Supreme Court, conducted the onsite compliance portion of the audit of the YCPF office. The onsite compliance audit consists primarily of fiduciary client case file review. The audit also included the fiduciary activities of the principal, certified and uncertified staff. There are two certified fiduciaries in the YCPF office.

Scope

YCPF was the court appointed fiduciary on 76 guardian, conservator, combination guardian/conservator, trusts and personal representative cases as of April 5, 2007.

The compliance audit team reviewed a selected stratified sample of eleven (11) client case files of court appointments and terminations, focusing on the internal controls, processes, timeliness, accuracy, statutory and ACJA requirements of client case administration.

Summary

YCPF staff extended professional courtesies and cooperation to the audit team during the course of the audit. There were minimal findings in the audit. The staff is to be commended, particularly in light of a recent increase in difficult client caseloads.

The compliance audit found non-compliance in six (6) key areas. The non-compliance was found in the areas of late filings, accuracy, securing assets and staff certification. These findings are discussed as follows:

Finding # I Certification Number Related Attributes: Arizona Code of Judicial Administration (ACJA) § 7-202 (F)(3)	Documents filed with the Superior Court in Yuma County must include both the fiduciary and the business certificate number on the court documents. • Court documents filed for clients were missing the certification number (one or both fiduciary's certification numbers) – Clients # 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11
Requirement	YCPF must include the required certification numbers, the individual's and the office, on all documents submitted to the superior court.
Auditee's Response	"The YCPF agrees with this finding."
Corrective Action	"All documents will now have both the signing fiduciary's certificate number and the business certificate number on them."

Finding # 2

The statutorily required court reports were submitted to the court after the due date.

> Late filings

- Late Annual Guardianship Reports -- Clients # 4, 9 and 11
- Late Inventory -- Clients # 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12
- Late Accountings -- Clients # 2, 3, 4, 5, 9, 10 and 11

Related Attributes:

ARS §§ 14-5315(A); 5418(A), 5419(A)

Arizona Code of Judicial Administration § 7-202(J)(2)(e)

Requirement

YCPF must submit the inventory and appraisement, annual accountings, guardianship reports, and/or proof of restriction on or before the statutorily required due date or court ordered due date for each client.

Auditee's Response

"LATE FILINGS (GUARDIANSHIP REPORTS)"

"The YCPF disagrees with Client "4's" guardianship report being late as this case is a Personal Representative case and does not require a guardianship report."

Auditor Note: Auditor agrees with YCPF.

"YCPF agrees that client "9's" guardianship report was late."

"The YCPF disagrees with client "11's" guardianship report being late as this case is a conservator only case and does not require a guardianship report."

Auditor Note: Auditor agrees with YCPF.

"LATE FILINGS (INVENTORY)"

"The YCPF agrees with the late filing on client "8" however; this was in 1992 and in a prior administration."

"The YCPF agrees with the late filing on client "10" however; this was in 1992 and in a prior administration."

"The YCPF agrees with the late filing on clients "4," "7," "9," and "11."

"The YCPF disagrees with clients "5" and "6" as these cases are guardianship only cases and no inventory is required."

Auditor Note: Auditor agrees with YCPF.

"The YCPF disagrees with client "1" as this case is a trust case and does not require an inventory."

Auditor Note: Auditor agrees with YCPF.

"The YCPF disagrees with clients "2" and "3" as the judge ordered six months to file inventories due to the significant increase of cases during this time period and inventories were filed within that time frame."

"The YCPF disagrees with client "12" as there was not a client "12" audit and there fore we are unaware of who client "12" is."

Auditor Note: Auditor agrees with YCPF.

"LATE FILINGS (ACCOUNTINGS)"

"The YCPF agrees with clients "2," "3," "4," "9," "10" and "11."

"The YCPF disagrees with client "5" as this is a guardianship only case and does not require an accounting and the YCPF does not handle any monies or assets."

Auditor Note: Auditor agrees with YCPF.

Corrective Action

"LATE FILINGS (GUARDIANSHIP REPORTS)"

"YCPF had previously put a tracking system in place to avoid late filings." This was during a time period when the YCPF had a significant increase in cases."

"LATE FILINGS (INVENTORY)"

"The YCPF had previously put a tracking and calendaring system in

	place to avoid this from happening again."
	"LATE FILINGS (ACCOUNTINGS)"
	"Due to a new tracking system previously put in place there have been no late accountings in over 12 months."
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Finding #3

> Accuracy

Related Attributes:

Arizona Code of Judicial Administration §§ 7-202 (J)(4)(j) & 7-202 (J)(5)(h) The inventory and appraisement, annual accounting and annual guardianship reports required by the court were inaccurately prepared and/or documented in the sampled cases:

- Putnam account #XXX-8144 had the wrong amount listed on Inventory Client # 1
- Ending balance of second annual accounting did not match the beginning balance of the third accounting Client # 2
- Inventory balance and beginning balance of first annual accounting did not match Client # 7
- Inventory was not totaled correctly Client # 9

Requirement

YCPF must ensure any document filed with the Superior Court is complete, accurate and understandable.

Auditee's Response

"ACCURACY (INVENTORY BALANCE)

"The YCPF disagrees with the finding on Putnam inventory balance on client "1." Client "1" is a Trust and did not require an inventory, nor was one filed. Therefore, we are unaware of what inventory the auditor is addressing."

Auditor Note: Auditor agrees with YCPF.

"ACCURACY (ENDING BALANCE ON ACCOUNTING)"

"The YCPF agrees with the account balance finding on client "2."

"ACCURACY (INVENTORY BALANCES ON Ist ANNUAL ACCOUNTING)"

"The YCPF agrees with the inventory balance and first accounting balance error on client "7."

"ACCURACY (INVENTORY NOT TOTALED CORRECTLY)"

"The YCPF agrees that the inventory was not totaled correctly on client "9".

Corrective Action

"ACCURACY (ENDING BALANCE ON ACCOUNTING)"

"The person reviewing the accountings will look at the prior accounting to verify before filing with the court."

"ACCURACY (INVENTORY BALANCES ON 1st ANNUAL ACCOUNTING)"

"The person reviewing the accountings will look at the inventory balance on all first accounting prior to filing with the court."

"ACCURACY (INVENTORY NOT TOTALED CORRECTLY)"

"Inventories are now entered into an Excel spreadsheet that totals the balance for the staff."

Finding #4

Marshalling and Securing Assets

Related Attributes:

Arizona Code of Judicial Administration § 7-202 (J)(5)(b)

Requirement

A certified fiduciary must take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible.

- Failed to re-title Putnam account # XXX-8144 Client # 1
- Bank account balance exceeded the FDIC collateralized limit – Client # 3

YCPF appointed as a conservator must observe the standard of care of a prudent man dealing with the property of another and if the fiduciary has special skills or expertise (i.e. certification) she/he is under a duty to exercise prudence, intelligence and diligence.

Auditee's Response

"MARSHALLING AND SECURING ASSETS (RE-TITLE PUTNAM ACCOUNT)"

"The YCPF disagrees with the finding of failed to re-title the Putnam account on client "1." The YCPF took reasonable steps to secure this asset. Putnam refused to remove the prior fiduciary and place the YCPF on this account without information from the prior fiduciary. The YCPF called her attorney and he worked with Putnam's attorneys to rectify the situation. All reasonable steps were taken and are documented in the file."

"MARSHALLING AND SECURING ASSETS (BALANCE EXCEEDED THE FDIC)"

"The YCPF agrees with the finding of the account balance exceeding the FDIC limit for client "3."

Corrective Action

"MARSHALLING AND SECURING ASSETS (BALANCE EXCEEDED THE FDIC)"

"The YCPF will work with the banks to ensure no monies are over the FDIC limit."

Finding # 5

> Staff Certification

Related Attributes:

Arizona Code of Judicial Administration §§ 7-202 (E)(4)(c) & 7-202 (F)(5)

Requirement

Staff performing fiduciary tasks, signing court documents, marshalling and securing assets, managing real and personal property, overseeing stocks and checking/savings accounts, securing burial information, securing benefits, contact with physicians and caregivers and assessing client level of care must be certified.

• The investigations/conservator staff and case managers performed many of the above named tasks.

All staff performing fiduciary duties must be certified.

Auditee's Response

"The YCPF disagrees with this finding. Until this audit, the YCPF was unaware of a list of duties requiring certification, as this is not listed in the AZ Statutes or the AZ Code of Judicial Administration. The Code does not define specific tasks just states that certified fiduciaries must have primary responsibility. All non-certified staff doing the above-mentioned tasks are directly supervised by a certified fiduciary and do not have primary responsibility for the client or the estate."

Auditor's Note: The list of duties requiring certification are not the sole basis for a finding. File reviews, observation and staff interviews detailing the above mentioned tasks are also factors in the determination of this finding. The key is decision-making responsibilities for a client/ward which would make the staff person accountable to not only principal fiduciary but to the court as well. Finding stands.

Corrective Action

"However, the YCPF has since placed all case managers and investigator(s) on the fiduciary certification trainee list and as soon as they meet eligibility; will become certified."

Finding # 6

> Documentation

Related Attributes:

A.R.S. § 14-5418(B)

By statute a fiduciary must keep suitable records of the administration of client cases and exhibit those records upon request. Suitable records include conformed copies of client court documents; and, documentation which includes decision-making and tracks the disposition, storage, disbursement and appreciation of items in a client's estate. Examples of missing documentation are:

- Lack of documentation on status of claims to be paid –
 Client # 4
- No documentation of status or description of \$375 worth of personal property – Client # 4
- No evidence of inquiry into house ownership Client # 4
- No documentation (invoices) for incurred legal fees Clients # 1-11
- No documentation on the disposition of the vehicle. This is also a violation of internal policies and procedures (page 25) Client # 4
- Documentation not found to support automobile disposition Client # 4
- Appraisal for real property missing Client # 9

Requirement

YCPF must develop a systematic process for marshalling, securing and documenting the administration of a client's estate and/or care to include all assets, transactions, activities and decision-making for each court appointed client.

Auditee's Response

"DOCUMENTATION (LACK OF DOCUMENTATION ON STATUS OF CLAIMS)

"The YCPF agrees with the lack of documentation on client "4."

"DOCUMENTATION (NO DOCUMENTATION OF STATUS)"

"The YCPF agrees with no documentation of the \$375.00 worth of personal property on client "4."

"DOCUMENTATION (EVIDENCE OF INQUIRY)"

"The YCPF disagrees with house ownership finding on client "4." Client "4" came to this office as a Guardianship/Conservatorship. This home was thoroughly researched in the

Guardianship/Conservatorship. It was found during the Guardianship/Conservatorship prior to this client's death that this client did not have ownership of this home. Therefore, it was not necessary to research this during the Personal Representative case.

"DOCUMENTATION (INVOICES)"

"The YCPF agrees with the finding of legal fee documentation on clients "1" through "11."

"DOCUMENTATION"

"The YCPF agrees with this, which appears to be the same finding on client "4." However, the YCPF did not violate an internal policy as this policy was put in place on 03/27/2007 after this incident in order to prevent the above-mentioned finding."

"DOCUMENTATION (APPRAISAL)"

"The YCPF agrees with the real property appraisal missing on client "9." This property was appraised; however, the YCPF could not locate the appraisal."

Appendix A

Section 3

YUMA COUNTY PUBLIC FIDUCIARY ADUTIEE RESPONSE

FINDING #1- CERTIFICATION NUMBER

Response:

The YCPF agrees with this finding.

Corrective Action:

All documents will now have both the signing fiduciary's

certificate number and the business certificate number on them.

FINDING #2A- LATE FILINGS (GUARDIANSHIP REPORTS)

Response:

The YCPF disagrees with client "4's" guardianship report being

late as this case is a Personal Representative case and does not

require a guardianship report.

Response:

The YCPF agrees that client "9's" guardianship report was late.

Corrective Action:

YCPF had previously put a tracking system in place to avoid late

filings.

Response:

The YCPF disagrees with client "11's" guardianship report being

late as this case is a conservator only case and does not require a

guardianship report.

FINDING #2B- LATE FILINGS (INVENTORY)

Response:

The YCPF agrees with the late filing on client "8" however; this

was in 1992 and in a prior administration.

Response:

The YCPF agrees with the late filing on client "10"; however; this

was in 1979 and in a prior administration.

Response:

The YCPF agrees with the late filing on clients "4," "7," "9," and

"11." This was during a time period when the YCPF had a

significant increase in cases.

Corrective Action:

The YCPF had previously put a tracking and calendaring system in

place to avoid this from happening again.

Response:

The YCPF disagrees with clients "5" and "6" as these cases are

guardianship only cases and no inventory is required.

Response:

The YCPF disagrees with client "1" as this case is a trust case and

does not require an inventory.

Response:

The YCPF disagrees with clients "2" and "3" as the judge Ordered six months to file inventories due to the significant increase of cases during this time period and inventories were filed within that

time frame.

Response:

The YCPF disagrees with client "12" as there was not a client "12"

audit and therefore we are unaware of who client "12" is.

FINDING #2C- LATE FILINGS (ACCOUNTINGS)

Response:

The YCPF agrees with clients "2," "3," "4," "9," "10" and "11."

Corrective Action:

Due to a new tracking system previously put in place there have

been no late accountings in over 12 months.

Response:

The YCPF disagrees with client "5" as this is a guardianship only case and does not require an accounting and the YCPF does not

handle any monies or assets.

FINDING #3A- ACCURACY (INVENTORY BALANCE)

Response:

The YCPF disagrees with the finding on Putnam inventory balance

on client "1." Client "1" is a Trust and did not require an

inventory, nor was one filed. Therefore, we are unaware of what

inventory the auditor is addressing.

FINDING #3B- ACCURACY (ENDING BALANCE ON ACCOUNTING)

Response:

The YCPF agrees with the account balance finding on client "2."

Corrective Action:

The person reviewing the accountings will look at the prior accounting to

verify before filing with the court.

FINDING #3C- ACCURACY (INVENTORY BALANCES ON 1ST ANNUAL A CCOUNTINGS)

Response: The YCPF agrees with the inventory balance and first accounting balance error on

client "7."

Corrective Action: The person reviewing the accountings will look at the inventory balance on all first

accounting prior to filing with the court.

FINDING #3D- ACCURACY (INVENTORY NOT TOTALED CORRECTLY)

Response: The YCPF agrees that the inventory was not totaled correctly on client "9."

Corrective Action: Inventories are now entered into an Excel spreadsheet that totals the balance for the

staff.

FINDING #4A-MARSHALLING AND SECURING ASSETS (RE-TITLE PUTNAM ACCOUNT)

Response: The YCPF disagrees with the finding of failed to re-title the Putnam account on client

"1." The YCPF took reasonable steps to secure this asset. Putnam refused to remove the prior fiduciary and place the YCPF on this account without information from the prior fiduciary. The YCPF called her attorney and he worked with Putnam's attorneys to rectify the situation. All reasonable steps were taken and are documented in the

file.

FINDING #4B- MARSHALLLING AND SECURING ASSETS (BALANCE EXCEEDED THE FDIC)

Response: The YCPF agrees with the finding of the account balance exceeding the FDIC limit

for client "3."

Corrective Action: The YCPF will work with the banks to ensure no monies are over the FDIC limit.

FINDING #5-STAFF CERTIFICATION

Response: The YCPF disagrees with this finding. Until this audit, the YCPF was unaware of a

list of duties requiring certification, as this is not listed in the AZ Statutes or the AZ Code of Judicial Administration. The Code does not define specific tasks just states

that certified fiduciaries must have primary responsibility. All non-certified staff doing the above-mentioned tasks are directly supervised by a certified fiduciary and do not have primary responsibility for the client or the estate. However, the YCPF has since placed all case managers and investigator(s) on the ficuciary certification trainee list and as soon as they meet eligibility; will become certified.

FINDING #6A-DOCUMENTAION (LACK OF DOCUMENTATION ON STA TUS OF CLAIMS)

Response: The YCPF agrees with the lack of documentation on client "4."

Corrective Action: Staff is required to document all research on claims to be p aid.

FINDING #6B- DOCUMENTAION (NO DOCUMENTATION OF STATUS)

Response: The YCPF agrees with no documentation of \$375.00 worth of personal property on

client "4."

Corrective Action: All property given a dollar amount is now tracked through an asset tracking system.

FINDING #6C- DOCUMENTATION (EVIDENCE OF INQUIRY)

Response: The YCPF disagrees with house ownership finding on client "4." Client "4" came to

this office as a Guardianship/Conservatorship. This home was thoroughly researched

in the Guardianship/Conservatorship. It was found during the

Guardianship/Conservatorship prior to this client's death that this client did not have ownership of this home. Therefore, it was not necessary to research this during the

Personal Representative case.

FINDING #6D- DOCUMENTAION (INVOICES)

Response: The YCPF agrees with the finding of legal fee documentation on clients "1" through

"11."

Corrective Action: YCPF will no longer pay solely from the court order and now requires attorneys to

submit invoices.

FINDING #6E AND FINDING #6F-DOCUMENTATION

Response: The YCPF agrees with this, which appears to be the same finding on client "4."

However, the YCPF did not violate an internal policy as this policy was put in place on 03/27/2007 after this incident in order to prevent the above-mentioned finding.

FINDING #6G- DOCUMENTATION (APPRAISAL)

Response: The YCPF agrees with the real property appraisal missing on client "9." This property

was appraised; however, the YCPF could not locate the appraisal.

Corrective Action: The YCPF has prepared filing instructions and instructions for striping and

maintaining files.